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4042 East Plaza Boulevard		ART UNIT		
National City, CA 91950		PAPER NUMBER		

3751

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,034

Applicant(s)

PANGRAMUYEN, EUGENIO L.

Examiner

~~Kathleen J. Prunner~~

NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 and 15-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, (A) the coupling means at a trailing end of the tubing, as called for by claim 1; (B) the connection means, as called for by claim 1; and (C) the tubing having cording reinforcement, as called for by claim 6, must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Specification

3. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a **concise statement of the technical disclosure** of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract **should be in narrative form** and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said", should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language **should be clear and concise and should not repeat information given in the title.** It should avoid using phrases which can be implied, such as, "The disclosure concerns", "The disclosure defined by this invention", "The disclosure describes", etc.

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5. The abstract of the disclosure is objected to because: (A) it is not a concise statement of the technical disclosure; (B) it refers to purported merits or speculative applications of the invention and it compares the invention with the prior art; (C) it is not in narrative form; (D) the language is not clear and concise; and (E) it repeats information given in the title. Correction is required. See MPEP § 608.01(b).

6. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. **Each of the lettered items should appear in upper case, without underlining or bold type**, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is

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separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

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7. The disclosure is objected to because of the following informalities: (A) page 1 contains superfluous data, i.e., everything above the title "Specification" should be deleted; (B) under the section heading "Summary of the Invention", applicant includes inappropriate sections "A.)" through "D.)"; and (C) applicant uses bold type. Appropriate correction is required.

8. The specification is objected to as failing to provide proper antecedent basis for the claimed terminology. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The claimed terminology which lacks such antecedent basis is as follows: (A) "coupling means", as called for by claim 1; (B) "connection means", as called for by claim 1; (C) the nozzle being formed with "an aftward coaxial male-connector means for coupling fast into said tubing", as called for by claim 12; (D) "a primary central longitudinal outlet means" and "obliquely trailing cooperative secondary inlet converging thereto as a common central air-passageway", as called for by claim 13; (E) "a splash-deflector device", "a substantially cup shaped annular trough like member", "a central stabilizing annular flange portion defining a through-hole which is sized to be a slip-fit around said tubing and thereby acting as a slide-guide", and "an outermost forward terminating annular flange portion" as called for by claim 14. Correction is required. It is suggested that applicant amend the specification to include this terminology.

9. The following informalities in the specification are noted: (A) on page 7, line 8, "passed" should be changed to read --past--; (B) on page 7, lines 13 and 15, "nozzle" is misspelled; (C) on page 7, line 19, "peripheral" is misspelled; and (D) on page 8, line 2, "nozzle" is misspelled. Appropriate correction is required.

10. The following informalities in the claims are noted: (A) in claim 1, on line 6, --a-- should be inserted before "trailing-end"; (B) in claim 2, on line 2, "actuatable" is misspelled. Appropriate correction is required.

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Claim Objections

11. The numbering of claims is not in accordance with 37 CFR 1.75(f) which requires that if there are several claims, they shall be numbered consecutively. There are two claim 3's present in the application.

Misnumbered claim 3 (the second claim 3) and claims 4-20 have been renumbered as claims 4-21. Hence, the application now contains claims 1-21.

Claim Rejections - 35 USC § 112

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

14. Claim 1 contains a term lacking proper antecedent basis. The claim recites the limitation "said apparatus" in line 1. There is insufficient antecedent basis for this limitation in the claim.

15. The term "sufficient linear-integrity" in claim 1 is a relative term which renders the claim indefinite. The term "sufficient linear-integrity" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

16. Claims 2 and 5-14 contain a term lacking proper antecedent basis. The claims recite the limitation "The pneumatic-snake apparatus" in line 1. There is insufficient antecedent basis for this limitation in the claims.

17. Claim 3 fails to recite the structure necessary to yield the sequential operation of the claimed device.

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18. Claim 3 contains a term lacking proper antecedent basis. The claim recites the limitation "The pneumatic-snake air-valve" in line 1. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 4 contains a term lacking proper antecedent basis. The claim recites the limitation "The pneumatic-snake air-pressure source" in line 1. There is insufficient antecedent basis for this limitation in the claim.

20. Claims 7-13 contain a term lacking proper antecedent basis. The claims recite the limitation "said air-nozzle portion" in lines 1-2. There is insufficient antecedent basis for this limitation in the claims.

21. Claim 14 contains a term lacking proper antecedent basis. The claim recites the limitation "the human operator" in line 7. There is insufficient antecedent basis for this limitation in the claim.

22. Claim 21 calls for "a clogged plumbing-line" (in lines 1-2), "a plumbing-line obstruction" (in lines 4-5), "said plumbing obstruction" (in lines 9-10), "the clogged plumbing-line" (in lines 11-12), "the obstruction" (in line 12), and "obstruction" (in line 14). However, it is unclear as to how the clog and obstruction structurally relate to one another.

23. Claim 21 also calls for "a deflection means arranged as a slip-fit upon said tubing as to reduce reverse-flow splash at the point of said tubing entry into said plumbing-line yet enabling manual feeding-in of said tubing therein said plumbing-line as required to access said plumbing obstruction" (note lines 7-10). However, it is unclear as to what structure is intended by this particular language.

24. Claim 21 contains terms lacking proper antecedent basis. The claim recites the limitations "said air-nozzle" in line 11, and "the sewer-line" in line 14. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Hughes, Jr., et al. Johnson discloses a drain declogging device or snake for clearing a clogged plumbing line having the claimed features including a length of flexible resilient imperforate tubing or hose 12 of sufficient linear integrity so as to be fed down into an existing drain pipe 10, the tubing or hose 12 including a nozzle means 15 at its leading end nozzle means 15, and, at its trailing end, a connection means 22 adapted to be connected to a pressure source means. Although Johnson discloses that the pressure source being used to clear the drain is water under pressure (note lines 22-38 in col. 2), attention is directed to Hughes, Jr., et al. who disclose another drain declogging device which is connected to a fluid under pressure, such as tap water or compressed air, to effect removal of clogs (note lines 10-15 in col. 1 and lines 47-52 in col. 2). It would have been obvious to one of ordinary skill in the drain declogging art, at the time the invention was made, to substitute for the water pressure source of Johnson, the compressed air pressure source as, for example, taught by Hughes, Jr., et al. wherein so doing would amount to mere substitution of one pressure source for another that would work equally well in the Johnson device. With respect to claim 2, Hughes, Jr., et al. further teach the obviousness of using a manually actuatable valve 190 (note Fig. 2) for selective inducement of the pressure source (note lines 4-13 in col. 6). With regard to claim 3, although Hughes, Jr., et al. fail to disclose such sequential intermittent operation of the valve 190, it is considered that to operate the valve 190 in such a manner is an obvious expedient to the skilled artisan especially when a really stubborn clog has been encountered and one pressure burst is not sufficient in removing the clog. With respect to claim 4, although Hughes, Jr., et al. teach the obviousness of

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using a pressure of approximately between 5-30psi (5 and 30 lbs/in²) to remove most clogs (note lines 31-33 in col. 4), it is considered that to use a pressure of approximately 80-120psi would be an obvious expedient to the skilled artisan especially when more difficult clogs are encountered and would depend upon the soundness of the plumbing system to accommodate such pressures.

27. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Hughes, Jr., et al., as applied to claims 1-4 above, and further in view of Maasberg.

With respect to claim 5, although Johnson fails to disclose the inside diameter of the tubing and even though applicant states that the size of the tubing is conventional, attention is directed to Maasberg who discloses another device for the cleaning and clearing of waste disposal systems having conduits of different diameters (note lines 37-43 in col. 1) and which uses a nozzle 2a connected to a flexible high pressure hose 1 provided with an internal diameter of substantially 10 to 20 mm, i.e., 0.39 to 0.78 inch, (note lines 7-9 in col. 3). It would have been obvious to one of ordinary skill in the drain declogging art, at the time the invention was made, to form the hose of Johnson with an internal diameter of 0.39 to 0.78 inch in view of the teachings of Maasberg in order to accommodate pipes of varying diameters.

With regard to claim 12, although Johnson fails to disclose the structural details of the nozzle 15, attention is directed to Maasberg who discloses another device for the cleaning and clearing of waste disposal systems wherein the flexible high pressure hose 1 is provided with a nozzle 2a having an aftward coaxial male connector or central chamber 6 which is coupled to the inner cavity of the hose (note lines 1-3 in col. 3 and Fig. 2). It would have been obvious to one of ordinary skill in the drain declogging art, at the time the invention was made, to form the nozzle of Johnson to have an aftward coaxial male connector in view of the teachings of Maasberg in order to permit the nozzle to be coupled to the inner cavity of the hose.

28. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Hughes, Jr., et al., as applied to claims 1-4 above, and further in view of Higbee. Although Johnson fails to disclose the construction of the tubing or hose 12 and even though applicant admits that using tubing having a cording reinforcement is conventional, attention is directed to

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Higbee who discloses another flexible high pressure hose formed with reinforcement of cord type fabric in order to overcome longitudinal extension and radial expansion (note lines 9-14 in col. 1) and to provide radial and longitudinal strength to a pressurized hose (note lines 14-16 in col. 1): It would have been obvious to one of ordinary skill in the pressurized tubing or hose art, at the time the invention was made, to form the pressurized tubing or hose 12 of Johnson of cording reinforcement in view of the teachings of Higbee in order to overcome longitudinal extension and radial expansion and to provide radial and longitudinal strength in such pressurized hoses.

29. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Hughes, Jr., et al., as applied to claims 1-4 above, and further in view of Burns. Although Johnson fails to disclose that the nozzle 15 is formed to have a primary central longitudinal outlet and obliquely trailing secondary inlets converging thereto, attention is directed to Burns who discloses another device for cleaning sewer pipes (note lines 26-29) having a flexible hose 9 connected to a nozzle (note lines 48-54) wherein the nozzle has a primary central longitudinal outlet 13 and obliquely trailing secondary inlets 15 converging thereto as shown in Fig. 2 in order to increase the propulsion or drawing impulse of the nozzle while performing to a marked degree the desired cleansing or scouring of the walls of the sewer pipe (note lines 39-47 and 77-87). It would have been obvious to one of ordinary skill in the drain/sewer declogging or cleansing art, at the time the invention was made, to form the nozzle of Johnson with a primary central longitudinal outlet and obliquely trailing secondary inlets converging thereto in view of the teachings of Burns in order to increase the propulsion or drawing impulse of the nozzle while performing to a marked degree the desired cleansing or scouring of the walls of the sewer pipe.

30. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Hughes, Jr., et al., as applied to claims 1-4 above, and further in view of Starner et al. Johnson further discloses the use of complementary spheres 26 and 28 to prevent back flow or act as a splash deflector such that sphere 28 is slid down the hose until it covers the entrance opening 38 of the drain pipe (note Fig. 1). Although Johnson fails to disclose that the back flow

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preventer or splash deflector is a substantially cup shaped annular trough, attention is directed to Starner et al. who disclose another back flow preventer or splash deflector for a fluid line 1 having guard member 7 of bell-shape or cup shape annular trough like member having a central stabilizing annular flange portion or neck 8 defining a through-hole which is sized to be slip-fit around the tubing and thereby acting as a slide guide and including an outermost forward terminating annular flange portion (note the outer lowermost edge shown in Fig. 2), serving to divert reverse-flowing activated water turbulence substantially away from backsplashing toward immediate presence of a human operator thereof (note lines 21-30, 33-38 and 48-55 on page 2). It would have been obvious to one of ordinary skill in the back flow preventer or splash deflector art, at the time the invention was made, to form the back flow preventer or splash deflector of Johnson of bell-shape or cup shape having an annular trough like member with a central stabilizing annular flange portion or neck defining a through-hole which is sized to be slip-fit around the tubing and thereby act as a slide guide and including an outermost forward terminating annular flange portion in view of the teachings of Starner et al. in order to divert reverse-flowing activated water turbulence substantially away from backsplashing toward the immediate presence of a human operator of the device.

Election/Restrictions

31. Applicant's election with traverse of the species of Fig. 7 in the reply filed on January 5, 2005 is acknowledged. The traversal is on the ground(s) that the disclosed embodiments are mere generic variants. This is not found persuasive because applicant did not submit evidence or identify such evidence now or record showing the species to be obvious variants.

The requirement is still deemed proper and is therefore made FINAL.

32. Claims 7-11 and 15-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on January 5, 2005.


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Conclusion

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Kathleen J. Prunner, whose telephone number is 571-272-4894.

34. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

35. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


TUAN NGUYEN
PRIMARY EXAMINER
11/28/05


Kathleen J. Prunner

November 10, 2005